

HCS HB 1758 -- PARENT/CHILD RELATIONSHIPS

SPONSOR: Cox (Long)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 6 to 4.

This substitute allows any person having a parent/child relationship with a minor child who is not the child's biological or legal parent to petition a court for an order establishing custody and visitation rights.

A petition may only be filed if at least one of the natural parents is deceased, at least one of the natural parents is unknown, the whereabouts of at least one of the natural parents is unknown and unascertainable for a period of one year, the parental rights of at least one biological parent have been terminated, or the remaining parent has not had an ongoing parent/child relationship with the minor child in question for a period of one year prior to the filing of the petition.

The petitioner must establish by a preponderance of the evidence that an ongoing parent/child relationship exists or did exist. There will be a rebuttable presumption that the biological or legal parents act in the best interests of the minor child, and this presumption can be rebutted using the preponderance of the evidence or the clear and convincing evidence standard. If a court determines that a relationship exists between the minor child and the petitioner and the parental presumption has been rebutted, a court may grant a petitioner visitation or custody rights if it is in the child's best interests and the natural parent is unfit, unsuitable, or unable to be a custodian; the welfare of the child requires granting the custody or visitation rights; or the natural parent is listed in the Child Abuse and Neglect Central Registry. The substitute prohibits the parental presumption from being used in any action to modify a judgment granted under these provisions.

If a military parent is required to be separated from a child due to deployment, a court cannot enter a final order under these provisions until 90 days after the deployment ends. Deployment or the potential for future deployment of a military parent cannot constitute grounds sufficient to support a custody or visitation order under these provisions. If a parent is required to be separated from his or her child due to employment and the parent provides ongoing support, the separation cannot constitute grounds sufficient to support a custody or visitation order under these provisions.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and

FY 2015.

PROPONENTS: Supporters say that the bill protects the rights of step-parents where one of the natural parents is deceased and protects the best interests of the child.

Testifying for the bill were Representative Long; Jack Cochran; and Larry Swall.

OPPONENTS: There was no opposition voiced to the committee.